

**Renewable Portfolio Standard (RPS); Engrossed Text (s. 196.378, Stats.).**

**196.378 Renewable resources. (1g) LEGISLATIVE FINDINGS.** The legislature finds all of the following:

(a) It is essential to the health and safety and economic well-being of Wisconsin that the state maintain a highly reliable electric system at all times.

(b) Increased reliance on out-of-state electric generation dependent on long-distance transmission of electricity to deliver the electricity to Wisconsin creates reliability and congestion cost risks that are significantly greater than reliance on electric generation located in Wisconsin at or near centers of demand for electricity.

(c) Historically, Wisconsin has relied on imports of electricity from other states for about 15 percent of the state's electricity needs.

(d) It is essential to the health and safety and economic well-being of Wisconsin that the state take actions to mitigate global climate change from emissions of greenhouse gasses. Central to such mitigation efforts is reducing reliance on electricity produced from fossil fuels through policies such as the renewable portfolio standard.

(e) As of the effective date of this paragraph .... [LRB inserts date], the most abundant and affordable sources of electricity that can be used to comply with the renewable portfolio standard are wind resources in western Minnesota, the Dakotas, and Iowa. Extensive reliance on these resources for compliance with the renewable

portfolio standard will produce a significant increase in dependence on imported electricity with the associated reliability and congestion cost risks.

(f) To balance the competing imperatives of maintaining the reliability of the electric system and reducing dependence on electricity produced from fossil fuels, it is essential that Wisconsin adopt a renewable portfolio standard that requires at least in part the production of electricity from renewable resources in this state.

~~(1)~~ **(1r)** DEFINITIONS. In this section:

(ag) “Baseline renewable percentage” means the average of an energy electric provider’s renewable energy percentage for 2001, 2002, and 2003.

~~(am) “Biomass cofired facility” means a renewable facility in which biomass and conventional resources are fired together.~~

~~(ar) “Biomass” means a resource that derives energy from wood or plant material or residue, biological waste, crops grown for use as a resource or landfill gases. “Biomass” does not include garbage, as defined in s. 289.01 (9), or nonvegetation-based industrial, commercial or household waste, except that “biomass” includes refuse-derived fuel used for a renewable facility that was in service before January 1, 1998 has the meaning given in s. 196.374 (1) (am).~~

~~(b) “Conventional resource” means a resource that derives energy from coal, oil, nuclear power or natural gas, except for natural gas used in a fuel cell.~~

(c) “Electric provider” means an electric utility or retail electric cooperative.

(d) “Electric utility” means a public utility that sells electricity at retail. For purposes of this paragraph, a public utility is not considered to sell electricity at retail solely on the basis of its ownership or operation of a retail electric distribution system.

(de) “In-state percentage” means, with respect to an electric provider, the portion of the electric provider’s renewable energy percentage that is derived from electricity generated by renewable facilities located in this state, renewable resource credits separated from such electricity, nonelectric energy, and nonelectric energy certificates.

(dm) “Nonelectric energy” means any of the following types of energy produced or generated at a facility located in this state and placed in service on or after the effective date of this paragraph .... [LRB inserts date], but only if the energy displaces fossil fuel use in this state:

1. The thermal output from a cogeneration production plant, as defined in s. 79.005 (1g).

2. The thermal output from a biomass-fueled boiler, but only if, after the effective date of this subdivision .... [LRB inserts date], the boiler was converted from a fossil fuel-fueled boiler to a biomass-fueled boiler.

3. The thermal output of a geothermal system.

4. Biogas that is put into a natural gas transmission or distribution pipeline.

5. The thermal output of a solar water heating system.

6. Useable light delivered by a solar light pipe.

7. Energy derived from other applications, specified by the commission by rule, that produce energy other than electricity from renewable resources.

(ds) “Nonelectric energy certificate” means a certificate created under the rules under sub. (3m) (a).

(fg) “Renewable energy” means electricity derived from -a- any of the following:

1. A renewable resource.

2. The combustion of refuse-derived fuel in a facility that was in service before January 1, 1998.

3. The combustion of solid waste that has been subject to a process to remove recyclable and noncombustible materials in a facility that is owned by a county in this state and that was in service before January 1, 1998.

(fm) “Renewable energy percentage” means, with respect to an electric provider for a particular year, the percentage that results from dividing the sum of the following by the total amount of electricity that the electric provider sold to retail customers or members in that year:

1. The electric provider’s ~~total~~ renewable energy in that year that is allowed under the rules promulgated under sub. (3) (c).

2. The renewable resource credits ~~created or purchased by the electric provider, if any,~~ that the electric provider elects to use in that year.

3. Nonelectric energy produced or generated by the electric provider in that year from which the electric provider does not create nonelectric energy certificates.

4. Nonelectric energy certificates that an electric provider purchases in that year.

~~(fr) “Renewable energy supplier” means a person from whom an electric provider purchases renewable energy at wholesale.~~

(g) “Renewable facility” means an installed and operational electric generating facility, located in or outside this state, that generates renewable energy.

(gm) “Renewable portfolio standard” means the requirement to comply with sub. (2) (a) 2.

(h) “Renewable resource” ~~means any of the following:~~ has the meaning given in s. 196.374 (1) (j).

~~1. A resource that derives electricity from any of the following:~~

~~a. A fuel cell that uses, as determined by the commission, a renewable fuel.~~

~~b. Tidal or wave action.~~

~~c. Solar thermal electric or photovoltaic energy.~~

~~d. Wind power.~~

~~e. Geothermal technology.~~

~~g. Biomass.~~

~~1m. A resource with a capacity of less than 60 megawatts that derives electricity from hydroelectric power.~~

~~2. Any other resource, except a conventional resource, that the commission designates as a renewable resource in rules promulgated under sub. (4).~~

~~(i) "Renewable resource credit" means a renewable resource credit, as defined in s. 196.378 (1) (i), 2007 stats., or a renewable resource credit calculated in accordance with rules promulgated created under sub. (3) (a) 1. and 2.~~

~~(j) "Resource" means a source of energy used to generate electric power.~~

~~(k) "Retail electric cooperative" means a cooperative association organized under ch. 185 that sells electricity at retail to its members only. For purposes of this paragraph, a cooperative association is not considered to sell electricity at retail solely on the basis of its ownership or operation of a retail electric distribution system.~~

~~(o) "Total renewable energy" means the total amount of renewable energy that the electric provider sold to its customers or members in a year. "Total renewable energy" does not include any energy that is used to comply with the renewable energy requirements of another state. "Total renewable energy" includes all of the following:~~

~~1. Renewable energy supplied by a renewable facility owned or operated by an affiliated interest or wholesale supplier of an electric provider and allocated to the electric provider under an agreement between the electric provider and the affiliated interest or wholesale supplier.~~

~~2. Renewable energy purchased by an affiliated interest or wholesale supplier of an electric provider from a renewable facility that is not owned or operated by the affiliated interest or wholesale supplier, which renewable energy is allocated to the electric provider under an agreement between the electric provider and the affiliated interest or wholesale supplier.~~

(p) "Wholesale supplier" has the meaning given in s. 16.957 (1) (w).

**(2) RENEWABLE RESOURCE ENERGY.** (a) 1. No later than June 1, 2016 2014, the commission shall prepare a report stating whether, by December 31, 2015 2013, the state has met a goal of 10 percent of all electric energy consumed in the state being renewable energy. No later than June 1, 2021, the commission shall prepare a report stating, whether by December 31, 2020, the state has met a goal of 20 percent of all electric energy consumed in this state being renewable energy and 6 percent of all electric energy consumed in this state being generated by renewable facilities located in this state. No later than June 1, 2026, the commission shall prepare a report stating, whether by December 31, 2025, the state has met a goal of 25 percent of all electric energy consumed in this state being renewable energy and 10 percent of all electric energy consumed in this state being generated by renewable facilities located in this state. If the a goal for a year has not been achieved, the a report shall indicate why the goal was not achieved and how it may be achieved, and the commission shall prepare similar reports biennially thereafter until the goal is achieved. The commission shall submit reports under this subdivision to the governor and chief

clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2).

2. Except as provided in pars. (e), (f), and (g):

a. For the years 2006, 2007, 2008, and 2009, each electric provider may not decrease its renewable energy percentage below the electric provider's baseline renewable percentage.

b. For the year 2010, each electric provider shall increase its renewable energy percentage so that it is at least 2 percentage points above the electric provider's baseline renewable percentage.

c. For the years 2011, and 2012, 2013, and 2014, each electric provider may not decrease its renewable energy percentage below the electric provider's renewable energy percentage required under subd. 2. b.

d. For the year ~~2015~~ 2013, each electric provider shall increase its renewable energy percentage so that it is at least 6 percentage points above the electric provider's baseline renewable percentage.

e. For ~~each year after the years 2014, 2015, 2016, 2017, 2018, and 2019~~, each electric provider may not decrease its renewable energy percentage below the electric provider's renewable energy percentage required under subd. 2. d.

f. For the year 2020, each electric provider shall increase its renewable energy percentage so that it is at least 16 percentage points above the electric provider's baseline renewable percentage and shall ensure that its in-state percentage is not less than 30 percent of the renewable energy percentage required under this subd.  
2. f.

g. For the years 2021, 2022, 2023, and 2024, each electric provider may not decrease its renewable energy percentage below the electric provider's renewable

energy percentage required under subd. 2. f. and may not decrease its in-state percentage below the electric provider's in-state percentage required under subd. 2. f.

h. For the year 2025, each electric provider shall increase its renewable energy percentage so that it is at least 21 percentage points above the electric provider's baseline renewable percentage and shall ensure that its in-state percentage is not less than 40 percent of the renewable energy percentage required under this subd. 2. h.

i. For each year after 2025, each electric provider may not decrease its renewable energy percentage below the electric provider's renewable energy percentage required under subd. 2. h. and may not decrease its in-state percentage below the electric provider's in-state percentage required under subd. 2. h.

(b) For purposes of determining compliance with ~~par. (a)~~ the renewable portfolio standard:

1. The total amount of electricity that an electric provider sold to retail customers or members in a year shall be calculated on the basis of an average of the electric provider's retail electric sales in this state during the prior 3 years.

1m. The Except as provided in subd. 1r., the amount of renewable resource credits associated with electricity derived from hydroelectric renewable resources that an electric provider may count toward satisfying the requirements of ~~par. (a) 2.~~ include in its renewable energy percentage shall be those renewable resource credits associated with all electricity provided by hydroelectric power that the electric provider purchased in the reporting year plus renewable resource credits associated with all of the following:



a. The For facilities owned or operated by the electric provider that were initially placed in service before January 1, 2004, the average of the amounts of hydroelectric power generated by the facilities owned or operated by the electric provider for 2001, 2002, and 2003, regardless of whether the electric provider owned or operated the facilities in those years, adjusted to reflect the permanent removal from service of any of those facilities and adjusted to reflect any capacity increases from improvements made to those facilities on or after January 1, 2004.

b. The amount of hydroelectric power generated in the reporting year by facilities owned or operated by the electric provider that are initially placed in service on or after January 1, 2004.

1r. a. Except as provided in subd. 1r. b. and c., an electric provider may not include in its renewable energy percentage any renewable resource credits associated with electricity derived from a hydroelectric facility that has a rated capacity of 60 megawatts or more.

b. Except as provided in subd. 1r. c., an electric provider may include in its renewable energy percentage renewable resource credits associated with electricity generated after December 31, 2013, from a hydroelectric facility located outside this state that has a rated capacity of 60 megawatts or more and that is first placed in service on or after the effective date of this subd. 1r. b. .... [LRB inserts date].

c. Renewable resource credits associated with electricity derived from a hydroelectric facility that is located in Manitoba, Canada, that has a rated capacity of 60 megawatts or more, and that is first placed in service on or after the effective date of this subd. 1r. c. .... [LRB inserts date], may be included in a renewable energy percentage only if the province of Manitoba has informed the commission in writing that the interim licenses under which the Lake Winnipeg Regulation Project and the

Churchill River Diversion Project were operating on the effective date of this subd. 1r. c. .... [LRB inserts date], have been replaced by final licenses and that those projects have received all final approvals, licenses, and permits applicable to them under Canadian law and only if the commission determines that such final licenses and any other actions taken by the province of Manitoba or Manitoba Hydro-Electric Board constitute a reasonable resolution of the concerns of the First Nations affected by those projects.

~~2. The amount of electricity supplied by a biomass cofired facility that may be counted toward satisfying the requirements of par. (a) shall be an amount equal to the product of the maximum amount of electricity that the facility is capable of generating and the ratio of the energy content of the biomass fuels to the energy content of both the biomass and conventional resources.~~

2m. A wholesale supplier may demonstrate compliance with the renewable portfolio standard on behalf of a member or customer, or on behalf of its members or customers in the aggregate.

~~4. A wholesale supplier may sell credits that it creates and may aggregate and allocate the credits that it creates among its members or customers. A member or customer may sell credits or portions of a credit allocated to the member or customer by the wholesale supplier.~~

~~5. An electric provider that purchases renewable energy from a renewable energy supplier may use an allocated share of the renewable energy sold by the renewable energy supplier to comply with a requirement under par. (a) 2. or to create a credit under sub. (3) (a), provided that the cost of the renewable energy is included in the price the electric provider paid the renewable energy supplier.~~

(bm) 1. In this paragraph:

a. “Energy content ratio” means, with respect to a facility, the ratio in which the numerator is the energy content of the biomass, solid waste, refuse-derived fuel, or any combination of biomass, solid waste, or refuse-derived fuel, that is burned by the facility and the denominator is the energy content of the fossil fuel and the biomass, solid waste, refuse-derived fuel, or any combination of biomass, solid waste, or refuse-derived fuel, that is burned by the facility.

b. “Facility” means a facility that burns a fossil fuel and also burns biomass, solid waste, refuse-derived fuel, or any combination of biomass, solid waste, or refuse-derived fuel.

2. The amount of renewable resource credits associated with electricity supplied by a facility that may be included in a renewable energy percentage shall be an amount equal to the product of the facility’s energy content ratio and the total amount of the electricity generated by the facility that is sold at retail.

3. The amount of renewable resource credits associated with thermal energy supplied by a facility that may be included in a renewable energy percentage shall be an amount equal to the product of the facility’s energy content ratio and the total amount of thermal energy that is produced by the facility.

(c) 1. No later than April 15 annually, or another annual date specified by the commission by rule, an electric provider shall submit a report to the commission that identifies the electric provider’s renewable energy percentage for the previous year and, beginning with the report submitted in 2021, the electric provider’s in-state percentage for the previous year, and describes the electric provider’s compliance with ~~par. (a) 2.~~ the renewable portfolio standard and the electric provider’s implementation plans for future compliance. ~~Reports under this paragraph may include certifications from renewable energy suppliers regarding the sources and~~

~~amounts of renewable energy supplied to the electric provider.~~ The commission may specify the documentation that is required to be included with reports submitted under this paragraph. The commission may require that electric providers submit the reports in a proceeding, initiated by the commission under this section relating to the implementation of s. 1.12, or in a proceeding for preparing a strategic energy assessment under s. 196.491 (2). A wholesale supplier may submit a report under this subdivision on behalf of a member or customer or on behalf of its members or customers in the aggregate.

2. No later than 90 days after the commission's receipt of ~~an electric provider's~~ a report submitted by or on behalf of an electric provider under subd. 1., the commission shall inform the electric provider whether the electric provider is in compliance with par. (a) ~~2.~~ the renewable portfolio standard.

(d) The commission shall allow an electric utility to recover from ratepayers the cost of ~~providing total renewable energy to its retail customers in amounts that equal or exceed the percentages specified in par. (a)~~ complying with or exceeding the renewable portfolio standard. Subject to any approval of the commission that is necessary, an electric utility may recover costs under this paragraph by any of the following methods:

1. Allocating the costs equally to all customers on a kilowatt-hour basis.
2. Establishing alternative price structures, including price structures under which customers pay a premium for renewable energy.
3. Any combination of the methods specified in subds. 1. and 2.

(e) An electric provider, ~~or a wholesale supplier for its members,~~ may request that the commission grant a delay for complying with a deadline specified in par. (a) ~~2.~~ the renewable portfolio standard. The commission shall hold a hearing on the

request and, if requested by the electric provider ~~or wholesale supplier~~, treat the matter as a contested case. The commission shall grant a delay if the commission determines that the applicant has demonstrated good faith efforts to comply with the deadline and that any of the following applies:

1. Notwithstanding reasonable efforts to protect against undesirable impacts on the reliability of an electric provider's system, compliance with the deadline will have an undesirable impact on the reliability of the applicant's system.

2. Notwithstanding reasonable efforts to protect against unreasonable increases in rates of the applicant's ratepayers or members, compliance with the deadline will result in unreasonable increases in rates of the applicant's ratepayers or members, including increases that are due to the discontinuation of federal renewable energy tax credits or other federal policies intended to reduce the acquisition costs of renewable energy.

3. Notwithstanding reasonable efforts to obtain required approvals, the applicant cannot comply with the deadline because the applicant or a supplier has experienced or will experience delays in receiving required siting or permitting approvals for renewable energy projects.

4. Notwithstanding reasonable efforts to secure transmission service, the applicant cannot comply with the deadline because the applicant faces transmission constraints that interfere with the economic and reliable delivery of renewable energy to the applicant's system.

(f) ~~A wholesale electric cooperative for its members or a municipal electric company~~ supplier for its members or customers may delay compliance with a deadline specified in par. (a) ~~2.~~ the renewable portfolio standard for any reason specified in par. (e) 1. to 4. ~~A wholesale electric cooperative or a municipal electric~~

~~company supplier~~ that delays compliance with a deadline specified in ~~par. (a) 2.~~ the renewable portfolio standard shall inform the commission of the delay and the reason for the delay, and shall submit information to the commission demonstrating that, notwithstanding good faith efforts by the ~~wholesale electric cooperative or municipal electric company~~ supplier and its members or customers, the members or customers cannot meet the deadline for the stated reason.

(g) 1. In this paragraph, “energy consumer advocacy group” means a group or organization that advocates on behalf of its members’ interests regarding the cost, availability, and reliability of energy or regarding utility regulation.

2. An energy consumer advocacy group may request that the commission grant to an electric provider that serves one or more members of the group a delay for complying with a deadline specified in ~~par. (a) 2.~~ the renewable portfolio standard. The commission shall hold a hearing on the request and, if requested by the energy consumer advocacy group, treat the matter as a contested case. The commission shall grant a delay if the commission determines that the utility has demonstrated good faith efforts to comply with the deadline and that any of the conditions in ~~par. (e) 1. to 4.~~ apply.

(h) For purposes of pars. (e), (f), and (g), a renewable energy percentage deadline for a year and an in-state percentage deadline for the same year are separate deadlines for which separate delays must be granted or authorized under par. (e), (f), or (g).

~~(3) RENEWABLE RESOURCE CREDITS. (a) 1. Subject to subd. 2., an electric provider that provides total renewable energy to its retail electric customers or members in excess of the percentages specified in sub. (2) (a) 2. may, in the applicable year, create a renewable resource credit and sell to any other electric provider the renewable~~

~~resource credit or a portion of the renewable resource credit at any negotiated price. An electric provider that creates or purchases a renewable resource credit or portion may use the credit or portion in a subsequent year, as provided under par. (c), to establish compliance with sub. (2) (a) 2. The commission shall promulgate rules that establish requirements for the creation and use of a renewable resource credit created on or after January 1, 2004, including calculating the amount of a renewable resource credit, and for the tracking of renewable resource credits by a regional renewable resource credit tracking system. The rules shall specify the manner for aggregating or allocating credits under this subdivision or sub. (2) (b) 4. or 5.~~

~~2. The commission shall promulgate rules for calculating the amount of a renewable resource credit that is created from a renewable facility placed into service before January 1, 2004. The rules shall provide that the amount of a renewable resource credit created on or after January 1, 2004, from such a renewable facility, except a renewable facility owned by a retail customer of an electric provider, is limited to the incremental increase in output from the renewable facility that is due to capacity improvements made on or after January 1, 2004.~~

~~(b) The commission may promulgate rules that establish requirements and procedures for a sale under par. (a) 1.~~

~~(c) A renewable resource credit created under s. 196.378 (3) (a), 2003 stats., may not be used after December 31, 2011. A renewable resource credit created under par. (a) 1. or 2., as affected by 2005 Wisconsin Act 141, may not be used after the 4th year after the year in which the credit is created, except the commission may promulgate rules specifying a different period of time if the commission determines that such period is necessary for consistency with any regional renewable resource credit trading program that applies in this state.~~

(3) RENEWABLE RESOURCE CREDITS. (a) 1. Except as provided in par. (d), whenever a person generates renewable energy, the person creates renewable resource credits in an amount equal to one credit for each megawatt hour of renewable energy generated. A person that generates renewable energy may do any of the following:

a. Sell the renewable energy and the associated renewable resource credits to any other person. For renewable energy that is sold at wholesale in this state, the sale is considered to include the associated renewable resource credits unless an agreement between the parties specifies otherwise.

b. Except as provided in s. 196.379 (6), separate the renewable resource credits from the renewable energy and sell, trade, transfer, assign, bank for future use, or permanently retire the credits or, if the person is an electric provider, elect to include the credits in the electric provider's renewable energy percentage.

2. A person that purchases renewable energy from which the associated renewable resource credits have not been separated may take any of the actions described in subds. 1. a. and b.

3. A person that purchases renewable resource credits may sell, trade, transfer, assign, bank for future use, or permanently retire the credits, or, if the person is an electric provider, elect to include the credits in the electric provider's renewable energy percentage.

4. An electric provider may include renewable resource credits created by the generation of renewable energy outside this state in the electric provider's renewable energy percentage if the credits are documented in a regional renewable resource credit tracking system designated by the commission in rules promulgated under



par. (b) and the credits satisfy the requirements of this subsection and the rules promulgated under par. (b).

5. An electric provider may not include a renewable resource credit in the electric provider's renewable energy percentage if the renewable resource credit or renewable energy from which the credit has been separated has been used to comply with the renewable energy requirements of another state.

6. An electric provider may not use renewable resource credits created by the generation of renewable energy outside this state to comply with an in-state percentage requirement of the renewable portfolio standard.

7. A renewable resource credit remains eligible to be included in a renewable energy percentage until an electric provider uses the credit in the electric provider's renewable energy percentage or the owner of the credit retires the credit.

(b) The commission shall promulgate rules that establish requirements and procedures for creating, selling, trading, transferring, assigning, banking, and retiring renewable resource credits, for an electric provider's inclusion of renewable resource credits in the electric provider's renewable energy percentage, and for tracking renewable resource credits under a regional renewable resource credit tracking system designated by the commission.

(c) The commission shall promulgate rules that allow an electric provider to include in the electric provider's renewable energy percentage renewable energy generated or purchased by the electric provider from which renewable resource credits have not been separated.

(d) Renewable resource credits associated with hydroelectric power specified in sub. (2) (b) 1m. a. and b. may not be sold, traded, transferred, assigned, or banked for future use.

**(3m)** NONELECTRIC ENERGY. (a) The commission shall promulgate rules allowing an electric provider to include in its renewable energy percentage for a year the megawatt hour equivalent of nonelectric energy produced or generated by the electric provider in the year. The commission shall also promulgate rules allowing any person, including an electric provider, to create a certificate documenting the megawatt hour equivalent of nonelectric energy produced or generated by the person in a year and to sell the certificate to an electric provider for inclusion in the electric provider's renewable energy percentage for that year. An electric provider who purchases a certificate may sell the certificate to another electric provider, but a certificate may be included in an electric provider's renewable energy percentage only in the year that the nonelectric energy documented by the certificate was generated. There is no limit on the number of sales in a year by electric providers.

(b) The rules promulgated under par. (a) shall include requirements and procedures for determining the megawatt hour equivalent of nonelectric energy, measuring and verifying nonelectric energy, and demonstrating that nonelectric energy has displaced fossil fuel use in this state.

~~**(4)** RULES. The commission may promulgate rules that designate a resource, except for a conventional resource, as a renewable resource in addition to the resources specified in sub. (1) (h) 1. and 1m.~~

**(4m)** ADDITIONAL RENEWABLE RESOURCES REQUIREMENTS. (a) The commission may not impose on an electric provider any requirement that increases the electric provider's renewable energy percentage or in-state percentage beyond that required under sub. (2) (a) 2. the renewable portfolio standard. If an electric provider is in compliance with the requirements of sub. (2) (a) 2. renewable portfolio standard, the commission may not require the electric provider to undertake, administer, or fund

any other renewable energy program. This paragraph does not limit the authority of the commission to enforce an electric provider's obligations under s. 196.374 or 196.379.

(b) An electric utility may, with commission approval, administer or fund a program that increases the electric utility's renewable energy percentage or in-state percentage beyond that required under sub. (2) ~~(a) 2.~~ the renewable portfolio standard. The commission may not order an electric utility to administer or fund a program under this paragraph.

**(4r) REPORTS.** No later than July 1 of each even-numbered year, the commission shall submit a report to the governor and chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2) that evaluates the impact of the requirements of this section on the rates and revenue requirements of electric providers and compares that impact with the impact that would have occurred if renewable energy practices of electric providers were subject to market forces in the absence of the requirements of this section.

**(5) PENALTY.** Any person who violates sub. (2) ~~or any renewable energy supplier who~~ provides an electric provider with ~~a~~ false or misleading certification information regarding the sources or amounts of renewable energy supplied at wholesale to the electric provider shall forfeit not less than \$5,000 nor more than \$500,000. Forfeitures under this subsection shall be enforced by action on behalf of the state by the attorney general. A court imposing a forfeiture under this subsection shall consider all of the following in determining the amount of the forfeiture:

(a) The appropriateness of the forfeiture to the person's ~~or wholesale supplier's~~ volume of business.

(b) The gravity of the violation.

(c) Whether a violation of sub. (2) is due to circumstances beyond the violator's control.